REMARKS

Claims 1-103 are pending in the present patent application. Applicant has cancelled claims 72-78 and 84-103. Applicant has also amended claims 10, 47, 49, 67 and 79. Applicant respectfully requests reconsideration and re-examination of claims 1-71 and 79-83 in the present patent application and presents the following arguments:

Examiner's Objection to the Reissue Oath/Declaration

Examiner has objected to the reissue oath/declaration as failing to adequately identify at least one error as per 1.175(a)(1). Applicant has submitted a reissue oath/declaration that more specifically identifies at least one error. Thus, Applicant submits that Examiner's objection to the reissue oath/declaration is overcome.

Examiner's Objection to Lack of Offer to Surrender Patent under 37 C.F.R. § 1.178

Examiner has objected to lack of an offer to surrender the patent under 37 C.F.R. § 1.178, stating that such an offer must be made before the reissue application may be allowed. Applicant hereby offers to surrender U.S. Patent number 6,032,156. Thus, Applicant submits that Examiner's objection to the lack of offer to surrender the patent is overcome.

Priority

Examiner states that applicant must again claim priority in the reissue application. Applicant hereby claims priority for this reissue application to U.S. patent number 6,032,156, filed April 1, 1998 and to U.S. provisional patent application number 60/042,564, filed April 1, 1997 to which U.S. patent number 6,032,156 claimed priority.

Response to Amendment

Examiner states that the preliminary amendment was not in proper form. Specifically, Examiner states that added claims should be underlined. However, Examiner also states that the added claims 42-103 are pending in the present application, so Applicant believes Examiner has accepted claims 42-103 as added.

Examiner also stated that Applicant did not supply an explanation of the support in the disclosure for the new claims. Applicant submits the following explanation:

Support in the disclosure for the amendments to claims 6, 7, 16, and 17 is found in at least column 9 lines 21-41 in combination with support for any claims upon which these claims depend. Support in the disclosure for the amendment to claim 10 is found in at least claim 10. Support in the disclosure for the amendments to claims 23, 24 and 26 is found in at least Figure 7 in combination with support for any claims upon which these claims depend. Support in the disclosure for the amendments to claims 30 and 36 is found in at least the abstract in combination with support for any claims upon which these claims depend.

Support in the disclosure for the addition of claims 42 and 52 is found in at least column 5, lines 3-39 in combination with support for any claims upon which these claims depend. Support in the disclosure for the addition of claims 43 and 53 is found in at least the abstract in combination with support for any claims upon which these claims depend. Support in the disclosure for the addition of claims 44, 45, 48, 54, 55, 60, 61, 63, 64 is found in at least column 3, lines 31-46 in combination with support for any claims upon which these claims depend. Support in the disclosure for the addition of claims 46, 56, 62, 65 is found in at least claim 33 in combination with support for any claims upon which these claims depend. Support in the disclosure for the addition of claims 47 and 49 is found in at least claim 10 in combination with

support for any claims upon which these claims depend. Support in the disclosure for the addition of claims 50 and 51 is found in at least column 5, lines 40-57 in combination with support for any claims upon which these claims depend.

Support in the disclosure for the addition of claims 57 and 58 is found in at least column 10, lines 40-67 in combination with support for any claims upon which these claims depend. Support in the disclosure for the addition of claim 59 is found in at least claim 24 in combination with support for any claims upon which these claims depend. Support in the disclosure for the addition of claim 66 is found in at least column 14, lines 8-13 in combination with support for any claims upon which these claims depend. Support in the disclosure for the addition of claims 67 and 68 is found in at least column 4, lines 52-67 in combination with support for any claims upon which these claims depend. Support in the disclosure for the addition of claims 69-71 is found in at least column 2, lines 66-67 and column 3, lines 1-30 in combination with support for any claims upon which these claims depend.

Support in the disclosure for the addition of claim 79 is found in at least claim 1 and column 8, lines 1-56 in combination with support for any claims upon which these claims depend. Support in the disclosure for the addition of claims 80-83 is found in at least claim 1 and column 4, lines 52-67 in combination with support for any claims upon which these claims depend. Support in the disclosure for the addition of claim 84 is found in at least claim 1, column 4, lines 52-67 and column 2, lines 1-11 in combination with support for any claims upon which these claims depend.

Election/Restriction

Examiner required restriction under 35 U.S.C. 121 to either group I (claims 1-71, 79 and 80-83) or group II (claims 72-78 and 84-103). On March 3, 2003, a provisional election was

made without traverse to prosecute the invention of group I. Applicant hereby affirms the

provisional election to prosecute the invention of group I.

Rejection of Claims Under 35 U.S.C. §251

Examiner rejected claims 1-71, 79 and 80-83 under 35 U.S.C. 251 as being based upon a

defective reissue declaration. As discussed above, Applicant has corrected the alleged defect.

Thus, Applicant submits that Examiner's rejection of claims 1-71 and 79-83 under 35 U.S.C. 251

are overcome and claims 1-71 and 79-83 are in condition for allowance.

Examiner's Rejection of Claims 1-5, 8, 9, 11-15, 18, 19, 21-31, 36, 37, 47, 50, 57-59, 67 and 79-83 under 35 U.S.C. § 102(e)

Examiner has rejected claims 1-5, 8, 9, 11-15, 18, 19, 21-31, 36, 37, 47, 50, 57-59, 67

and 79-83 under 35 U.S.C. § 102(e) as being anticipated by U.S. patent number 5,861,880 issued

to Takeshi Shimizu et al. ("Shimizu"). Applicant respectfully disagrees. The Examiner states:

> With respect to claim 1, Shimizu teaches a method of creating media programming, comprising:
> maintaining a database containing selected information about each of a plurality of media
> elements; selecting a plurality of said media elements in response to a request for media programming, and
> selecting a temporal organization for said selected media elements, said temporal organization not being
> dictated by said selected information; and assembling said media elements into media programming
> (column 1, lines 8-16).
> As to claim 2, said media elements are audiovisual clips, and said media programming is an
> audiovisual program (column 8, lines 24-52).
> As to claim 3, said media elements are still photographs, and said media programming comprises a
> series of said still photographs (column 8, lines 24-52).
> As to claim 4, said selected information comprises content information relating to said media
> assets (column 8, lines 24-52).
> As to claim 5, said selected information comprises a plurality of tags associated with each of said
> media elements, at least one of said tags being a content tag containing information relating to content of
> said media element, and at least one of said tags being a control tag containing information other than
> content information (column 10, lines 43-67).
> As to claim 8, said step of selecting further comprises selecting two elements based on said
> request, selecting a temporal order for said two elements, and determining based on information in said
> control tags whether said two elements may be assembled in the selected temporal order, and, if not,
> deselecting at least one of said two elements (column 11, lines 54-67 and column 12, lines 1-36).
> As to claim 9, said step of selecting further comprises selecting two elements based on said
> request, selecting a temporal order for said two elements, and selecting transitions for said two elements

based on transition information associated with each of said elements and transition rules (column 11, lines 54-67 and column 12, lines 1-36).

With respect to claim 30, Shimizu teaches a method of creating media programming from a plurality of stored media elements, comprising:

Selecting from a database containing information concerning said media elements a plurality of said media elements and automatically designating a temporal sequence for said selected media elements; and automatically selecting transitions for each of said media elements (column 1, lines 8-16 and column 4, lines 16-31).

As to claim 31, said step of automatically selecting transition comprises selecting transitions independently for a video portion of said element and for an audio portion of said element (column 14, lines 44-56).

As to claim 47, the step of obtaining desired content information concerning an intended view of a the programming prior to said step of selecting, and employing said desired content information in said step of selecting (column 8, lines 14-52).

As to claim 67, obtaining psychographics information concerning an intended view of a the programming prior to said step of selecting, and employing said psychographics information in said step of selecting (column 8, lines 14-52).

Applicant respectfully disagrees. Applicant submits that claims 1-5, 8, 9, 11-15, 18, 19, 21-31, 36, 37, 47, 50, 57-59, 67 and 79-83 are not anticipated by Shimizu for at least the following reasons.

1.   The present invention is not anticipated by Shimizu because Shimizu does not teach automatically selecting a plurality of said media elements in response to a request for media programming, and automatically selecting a temporal organization for said selected media elements, said temporal organization not being dictated by said selected information.

Examiner relies on Shimizu to teach automatically selecting a plurality of said media elements in response to a request for media programming, and automatically selecting a temporal organization for said selected media elements, said temporal organization not being dictated by said selected information. However, Shimizu does not teach, suggest or describe automatically selecting a plurality of said media elements in response to a request for media programming, and automatically selecting a temporal organization for said selected media elements, said temporal organization not being dictated by said selected information. Instead, Shimizu teaches only manually selecting media elements. Shimizu does not each any automatic selection or assembly functions.

2.   The present invention is not anticipated by Shimizu because Shimizu does not teach a method for verifying viewing and comprehension of a media program.

Examiner relies on Shimizu to teach a method for verifying viewing and comprehension of a media program. However, Shimizu does not teach, suggest or describe a method for verifying viewing and comprehension of a media program. Shimizu does not even mention verification that a media program was either viewed or comprehended.

For at least the forgoing reasons, Applicant submits that the cited reference does not teach, describe or suggest the present invention and that independent claims 1, 11, 23, 30, 36, 79 and 80 and dependent claims 2-5, 8, 9, 12-15, 18, 19, 21, 22, 24-29, 31, 37, 47, 50, 57-59, 67 and 81-83 are patentably distinct from the cited prior art.

For at least the foregoing reasons, Applicant submits that the cited references do not teach, describe or suggest the present invention. Therefore, Applicant submits that independent claims 1, 11, 23, 30, 36, 79 and 80 are allowable. Further, dependent claims 2-5, 8, 9, 12-15, 18, 19, 21, 22, 24-29, 31, 37, 47, 50, 57-59, 67 and 81-83, being dependent upon an allowable base claims, are also allowable for at least the forgoing reasons with respect to claims 1, 11, 23, 30, 36, 79 and 80.

Examiner's Rejection of Claims 6, 7, 10, 16, 17, 20, 32-35, 38-46, 48, 49, 51-56, 60-66 and 68-71 under 35 U.S.C. § 103(a)

Examiner has rejected claims 6, 7, 10, 16, 17, 20, 32-35, 38-46, 48, 49, 51-56, 60-66 and 68-71 under 35 U.S.C. § 103(a) as being unpatentable over Shimizu in view of U.S. patent number 5,966,121 issued to John Hubbell et al. ("Hubbell"). Applicant respectfully disagrees. The Examiner states:

> As to claims 6 and 7, Shimizu teaches all the limitations except that he does not explicitly teaches control tags contains transition information and a luminance range for a portion of said media clip as claimed.

Hubbell teaches media element is a media clip, and at least one of said control tags contains transition information (column 10, lines 20-28; Hubbell) and at least one of said control tags contain a luminance range for a portion of said media clip (column 5, lines 9-25 and column 10, liens 20-28; Hubbell).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to combine Hubbell with Shimizu because combination would permit access to video editing format and to efficient modification of the data signal portion of a multimedia sit-stream (column 2, lines 54-61; Hubbell).

As to claims 42 and 43, said transition information comprises: a transition point and a transition type (column 9, lines 53-56; Hubbell).

As to claims 44-46, said transition type is a dissolve, a cut and a fade (column 7, lines 26-30 and column 14, line 65 – column 15, line 6; Hubbell).

As to claim 48, a modification parameter wherein said modification parameter is used to modify a transition (column 5, lines 17-25; Hubbell and column 16, lines 13-20; Shimizu).

As to claim 10, Shimizu teaches all the limitation except he does not explicitly teach the step of obtaining a demographic information as claimed.

Hubbell teaches the step of obtaining demographic information concerning an intended biew of a the programming prior to said step of selecting, and employing said demographic information in said step of selecting (column 7, lines 8-25; Hubbell).

It would have been obvious to a person of ordinary skill in the art at the time of the invention was made to combine Hubbell with Shimizu because combination would permit access to video editing format and to efficient modification of the data signal portion of a multimedia bit-stream (column 2, lines 54-61; Hubbell).

It would have been obvious to a person of ordinary skill in the art to employing said demographic information in said step of selecting for statistical purposes.

As to claim 49, the step of obtaining desired style information concerning an intended view of a the programming prior to said step of selecting, and employing said desired information in said step of selection (column 4, line 66 – column 5, line 8; Hubbell and column 8, lines 14-52; Shimizu).

As to claim 66, assembling an automatically assembled media clip into said media programming (column 8, lines 24-52; Shimizu and column 1, line 63 – column 2, line 5; Hubbell).

As to claim 68, filtering a first media element out of consideration for inclusion in said media programming wherein said filtering is performed by a moderation layer column 5, lines 17-25; Hubbell)

As to claims 69-71, at least one of said tags is a taxonomic tag, an attribute tag and a reusability tag (column 10, lines 20-28 and column 14, lines 10-16; Hubbell).

The subject matter of claim 32 is rejected in the analysis above in claims 5 and 6 and this claim is rejected on that basis.

The subject matter of claims 34 and 35 are rejected in the analysis above in claims 42 and 43 and these claims are rejected on that basis.

The subject matter of claims 33 and 60-62 are rejected in the analysis above in claims 44-46 and these claims are rejected on that basis.

The subject matter of claims 11-22 and 50-56 are essentially the same as claims 1-10, 42-49 and 66-71 except that it sets forth the claimed invention as a system rather than a method and rejected for the same reasons as applied hereinabove.

The subject matter of claims 23-29 and 57-59 are rejected in the analysis above in claims 1-10, 42-49 and 66-71 and these claims are rejected on that basis.

The subject matter of claim 79 is rejected in the analysis above in claims 1-10, 42-49 and 66-71 and this claim is rejected on that basis.

The subject matter of claims 80-83 are rejected in the analysis above in claims 1-10, 42-49 and 66-71 and these claims are rejected on that basis.

Claims 36-41 and 63-65 are essentially the same as claims 30-35 and 60-62 except that it sets forth the claimed invention as a system rather than a method and rejected for the same reasons as applied hereinabove.

Applicant respectfully disagrees. Applicant submits that claims 6, 7, 10, 16, 17, 20, 32-35, 38-46, 48, 49, 51-56, 60-66 and 68-71 are not unpatentable over Shimizu in view of Hubbell for at least the following reasons.

1.   The present invention is not unpatentable over Shimizu in view of Hubbell because neither Shimizu nor Hubbell teaches automatically selecting a plurality of said media elements in response to a request for media programming, and automatically selecting a temporal organization for said selected media elements, said temporal organization not being dictated by said selected information.

Examiner relies on Shimizu and Hubbell to teach automatically selecting a plurality of said media elements in response to a request for media programming, and automatically selecting a temporal organization for said selected media elements, said temporal organization not being dictated by said selected information. However, neither Shimizu nor Hubbell teaches, suggests or describes automatically selecting a plurality of said media elements in response to a request for media programming, and automatically selecting a temporal organization for said selected media elements, said temporal organization not being dictated by said selected information. Instead, Shimizu teaches only manually selecting media elements. Shimizu does not each any automatic selection or assembly functions.

Hubbell does not teach automatically selecting media elements or automatically selecting a temporal organization not dictated by the selected information. Hubbell teaches a pre-defined content that is delivered according to a fixed temporal arrangement. Additionally, Hubbell teaches that in the only instances in which a temporal organization might not be fixed (i.e., user interactions introducing branches in the programming), the media element is selected manually by a user rather than automatically. Further, any branch automatically taken by the program is pre-determined and the media elements surrounding the branch have a temporal organization dictated by the selected information.

2.   The present invention is not unpatentable over Shimizu in view of Hubbell because neither Shimizu nor Hubbell teaches a method for verifying viewing and comprehension of a media program.

Examiner relies on Shimizu and Hubbell to teach a method for verifying viewing and comprehension of a media program. However, neither Shimizu nor Hubbell teaches, suggests or describes a method for verifying viewing and comprehension of a media program. Neither Shimizu nor Hubbell even mentions verification that a media program was either viewed or comprehended.

For at least the forgoing reasons, Applicant submits that the cited reference does not teach, describe or suggest the present invention and that claims 6, 7, 10, 16, 17, 20, 32-35, 38-46, 48, 49, 51-56, 60-66 and 68-71 are patentably distinct from the cited prior art.

For at least the foregoing reasons, Applicant submits that the cited references do not teach, describe or suggest the present invention. Therefore, Applicant submits that claims 6, 7, 10, 16, 17, 20, 32-35, 38-46, 48, 49, 51-56, 60-66 and 68-71 are allowable.

CONCLUSION

For at least the foregoing reasons, Applicant respectfully submits that pending claims 1-71 and 79-83 are patentably distinct from the prior art of record and in condition for allowance. Applicant therefore respectfully requests that pending claims 1-71 and 79-83 be allowed.

Respectfully submitted,

COUDERT BROTHERS LLP

Date: ___June 3, 2003___   By: _____

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